

REMARKS/ARGUMENTS

Claims 23 - 36 have been withdrawn. Claims 2 and 13 have been cancelled without prejudice or disclaimer. Claims 1 and 12 have been amended to clarify the present invention. Claims 20-22 have been amended to change their dependency to independent claim 12. No new matter is introduced by these amendments. Paragraph 001 has been amended to show the status of the parent application. The changes address Examiner's objections to this application and put it into condition for allowance. In addition, Applicants would like to make the following arguments.

Response Under 35 U.S.C. §103 and Traverse

Examiner has put together an intricate rejection based on four references. However, Examiner has failed to meet the the prima facie case of obviousness.

The PTO has the burden of establishing a prima facie case of obviousness. MPEP 2142.

"To establish a prima facie case of obviousness, three basic criteria must be met.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

Second, there must be a reasonable expectation of success.

Finally, the prior art reference (or references when combines) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on the applicant's disclosure." (indentation and underline added for emphasis) MPEP 2142.

None of the references alone or in combination teach the features of the claimed invention because they fail to at least teach a calibration plate with a plurality of spectrally distinguishable species in each well and determining a correction factor for each of these spectrally distinguishable species.

The Harrison paper suggest that location biases exist, but does not present a

solution but it does not suggest that location biases can be based on spectral properties of filters that differentiate spectrally distinguishable species. It only teaches sending the instrument to the manufacturer for calibration. (page 986) Therefore, the Harrison paper teaches away from on-instrument calibration with a calibration plate. Further, the Ramm '973 patent teaches calibrating with an internal standard (Col. 17 to Col. 18), not with a calibration plate. Therefore, Ramm '973 also teaches away from a calibration plate. Furthermore, the Stabile '684 patent teaches a calibration plate, but only to correct for cross-talk from other samples by comparing a fluorescent plate with non-fluorescent plate (Col. 3, lines 30-60). This is a different type of calibration than the calibration of the present invention. Finally, the teaching of the Glass '256 patent does not supplement the lack of teachings of the other references nor teach toward the need for spectral calibration for each spectrally distinguishable species using a calibration plate with each species present.

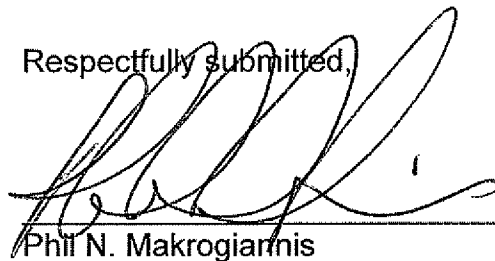
Applicants respectfully request reconsideration in view of the foregoing amendments and remarks.

FEE AUTHORIZATION and REQUEST FOR TIME EXTENSION

If any additional time extensions are required, such time extensions are hereby requested. If any additional fees not submitted with this response are required, please take such fees from Applied Biosystems Deposit Account No. 01-2213 (**Order No. 527711**).

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Respectfully submitted,



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